

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ESTATE OF RYAN VIOLA, deceased, by	:	
and through its Co-Administrators, ALICE	:	
VIOLA and SAMUEL VIOLA Jr.,	:	
	:	
Plaintiffs,	:	CIVIL ACTION
	:	
v.	:	
	:	NO. 14-5914- RB
TOWNSHIP OF BENSALEM,	:	
BENSALEM TOWNSHIP SCHOOL	:	
DISTRICT, BENSALEM TOWNSHIP	:	
POLICE DEPARTMENT, and ARMOUR	:	
AND SONS ELECTRIC, INC.,	:	
	:	
Defendants.	:	

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**ORDER**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ upon consideration of Defendants', Township of Bensalem and the Bensalem Police Department's Partial Motion to Dismiss Plaintiffs' Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), and any response thereto, Defendants' Motion is hereby GRANTED as follows:

1. Count I of Plaintiffs' Complaint as asserted against Defendants Township of Bensalem and the Bensalem Police Department is dismissed with prejudice;
2. Count II of Plaintiffs' Complaint to the extent it asserts a claim for Wrongful Death, and as asserted against Defendants Township of Bensalem and the Bensalem Police Department, is dismissed with prejudice; and

3. All claims against Defendant Bensalem Police Department are dismissed with prejudice.

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J.

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and through its Co-Administrators, ALICE	:	
VIOLA and SAMUEL VIOLA Jr.,	:	
	:	
Plaintiffs,	:	CIVIL ACTION
	:	
v.	:	
	:	NO. 14-5914 - RB
TOWNSHIP OF BENSALEM, BENSALEM	:	
TOWNSHIP SCHOOL DISTRICT,	:	
BENSALEM TOWNSHIP POLICE	:	
DEPARTMENT, and ARMOUR AND	:	
SONS ELECTRIC, INC.,	:	
	:	
Defendants.	:	

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**DEFENDANTS TOWNSHIP OF BENSALEM AND BENSALEM TOWNSHIP POLICE  
DEPARTMENT’S PARTIAL MOTION TO DISMISS PLAINTIFFS’ COMPLAINT**

Defendants the Township of Bensalem (“Township”) and Bensalem Police Department (“Police Department”), by and through its attorneys, The MacMain Law Group, LLC, hereby move This Honorable Court pursuant to F.R.C.P. 12(b)(6) for an Order (1) dismissing with prejudice Count I in its entirety as against the Township and Police Department, (2) dismissing with prejudice Count II against the Township and Police Department to the extent it asserts a wrongful death claim; and (3) dismissing with prejudice all claims against the Police Department. The grounds of this Motion are more fully set forth in the accompanying Brief in

Support of Defendants' Motion.

Respectfully Submitted,

Dated: November 19, 2014

/s/ David J. MacMain

David J. MacMain

Attorney ID # 59320

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*Counsel for Defendants, Township of Bensalem and  
Bensalem Police Department*

**DEASEY, MAHONEY & VALENTINI, LTD.**

By: /s/ John P. Morgenstern

JOHN P. MORGENSTERN, ESQUIRE

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*Counsel for Defendants Township of Bensalem  
and Bensalem Police Department*

**CERTIFICATE OF SERVICE**

I, David J. MacMain, Esquire, hereby certify that on this 19th day of November, 2014, the foregoing *Defendants Township of Bensalem and Bensalem Police Department's Partial Motion to Dismiss Plaintiffs' Complaint* was filed electronically and is available for viewing and downloading from the United States District Court of the Eastern District of Pennsylvania. The following parties were served as follows:

***Via the ECF system***

Charles L. Leone, Esquire  
The Law Offices of Louis R. Busico  
133 N. State Street  
Newtown, PA 18940  
*Counsel for Plaintiffs*

***Via the ECF system***

Joseph J. Santarone, Jr., Esquire  
Marshall Dennehey Warner Coleman & Goggin  
2000 Market Street, Suite 2300  
Philadelphia, PA 19103  
*Counsel for Defendant,  
Bensalem Township School District*

***Via First Class Mail***

Armour and Sons Electric, Inc.  
23 E. Cabot Boulevard  
Langhorne, PA 19047

**THE MACMAIN LAW GROUP, LLC**

Dated: November 19, 2014

By: /s/ David J. MacMain  
David J. MacMain  
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*Counsel for Defendants, Township of  
Bensalem and Bensalem Police Department*